

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

THE UNITED STATES OF AMERICA,)	C/A NO.: 9:14-cv-00230
et al,)	(Consolidated with 9:11-cv-1593-RMG)
)	and 9:15-cv-2485-RMG)
Plaintiffs,)	
)	
vs.)	MOTION FOR AUTHORIZATION
)	FOR COMPENSATION TO
BERKELEY HEARTLAB, INC., et al.)	FACT WITNESS
)	
Defendants.)	
_____)	

NOW COME the defendants, BlueWave Healthcare Consultants, Inc., Robert Bradford Johnson and Floyd Calhoun Dent, III (hereinafter “BlueWave”) and move this Honorable Court for an Order authorizing the payment of compensation to trial witness, Philippe Goix, for the reasons set forth in the memorandum below.

STATEMENT OF FACTS

Philippe Goix is the former Chief Executive Officer of Singulex, Inc. and is currently working in the medical field in similar executive role. As such, his work requires extensive travel and numerous time commitments commensurate with the role of a senior manager. Goix was subpoenaed to testify in this case due to his knowledge of Singulex’s contractual negotiations with BlueWave and the formation of the BlueWave sales agreement along with other information necessary for BlueWave’s defense. As previously directed, BlueWave has committed to pay for airfare and lodging for Mr. Goix necessary for his appearance at trial. Mr. Goix has further requested compensation for his time lost in travelling and testifying in the matter. He is a resident of California and

his compliance with the subpoena requires long distance travel to Charleston and at least two days of lost time. Mr. Goix has informed counsel that he is an experienced healthcare executive and sole breadwinner in his family. The time taken away from his work will therefore result in significant lost wages. For this reason, Mr. Goix has requested reimbursement in the amount of \$2,000.00 per day and has submitted an invoice for payment in the amount of \$4,000.00 attached hereto as Exhibit A and Mr. Goix's Declaration attached hereto as Exhibit B.

ARGUMENT

Counsel for BlueWave fully appreciates the appearance of impropriety or criminal liability that could result from the payment of any fee to a fact witness and therefore seeks an order from the Court authorizing payment to Mr. Goix for his lost time and wages. Under 18 U.S.C. §201(c)(2), "whoever directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court.... Shall be fined under this title or imprisoned for not more than two years, or both." However, 18 U.S.C. §201(d) qualified this prohibition by stating that "subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing or proceeding."

In this matter, Mr. Goix has requested the sum of \$2,000.00 per day for his lost time in appearing and testifying on behalf of BlueWave. As previously directed by this

Court, BlueWave has agreed to pay Mr. Goix's travel expenses. But BlueWave has no such authorization from this Court to pay any other expenses requested by Mr. Goix. Mr. Goix's considerable experience in the healthcare industry as well as his current employment may indeed justify compensation for his lost time and wages in appearing at trial. However, BlueWave has no information upon which to reach a conclusion as to the reasonable value of Mr. Goix's time. For this reason, BlueWave moves for an order authorizing it to compensate Mr. Goix for his time in appearing at trial in an amount determined by the Court. Counsel for Defendants has consulted with counsel for the United States who has indicated that the United States has no objection to this motion.

CONCLUSION

BlueWave hereby requests that the Court issue an order authorizing payment to Mr. Goix for his time in appearing at trial in an amount of \$4,000.00 as requested by Mr. Goix or at whatever reasonable rate shall be determined by the Court.

March 16, 2018

Respectfully Submitted,

/s/ M. Dawes Cooke, Jr.

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Certificate of Service

I declare that I filed the foregoing on the court's electronic filing system, which
forwarded an electronic copy to Plaintiffs' counsel.

March 16, 2018

Respectfully submitted,

/s/ M. Dawes Cooke, Jr.

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